

Court of Appeals, State of Michigan

ORDER

People of MI v Janiro M Brantley

Docket No. 276077

LC No. 06-013792

Kurtis T. Wilder
Presiding Judge

Helene N. White

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review. The prosecutor is correct that the testimony of the complainant is not necessary to bind a defendant over on a charge if there is sufficient evidence to establish probable cause without that testimony. On the other hand, because defendant requested an adjournment of the preliminary examination, or a continuance, so that the complainant could be cross-examined, and because a defendant has the right to present testimony at a preliminary examination, *People v King*, 412 Mich 145, the circuit court did not abuse its discretion in remanding to the district court for testimony by the complainant. If the complainant continues to be unable to testify due to his injuries, and it appears that he will be unable to testify even at the hospital for the near future, then the district court may proceed to make the bind-over decision again on the existing record. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 13 2007

Date

Sandra Schultz Mengel
Chief Clerk